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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/732,293	12/08/2000	Timo Hanninen	59643.00657	2672
32294	7590	10/11/2006	EXAMINER	
SQUIRE, SANDERS & DEMPSEY L.L.P.			HSU, ALPUS	
14TH FLOOR			ART UNIT	
8000 TOWERS CRESCENT			PAPER NUMBER	
TYSONS CORNER, VA 22182			2616	

DATE MAILED: 10/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/732,293

Applicant(s)

HANNINEN ET AL.

Examiner

Alpus H. Hsu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 23-42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 23-42 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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1. The indicated allowability of claims 23-41 is withdrawn in view of the newly discovered reference(s) to OSTRUP et al. in U.S. Patent No. 6,292,664 B1, hereinafter referred to as OSTRUP. Rejections based on the newly cited reference(s) follow.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 23-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over OSTRUP (newly cited).

Referring to claim 23, OSTRUP discloses a network (100), comprising a controller (MSC) configured to communicate with a plurality of radiotelephones (120-180) via respective communication channels over a carrier, wherein the channels can operate at a first or second data rate such that the carrier can transmit a single communication channel operating at the first data rate or two communication channels operating at the second data rate, and in response to a comparison of High Traffic Threshold (HTTH) value, configured to initiate a change in a data

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rate of a transmitting channel from the first data rate to the second data rate (see col. 4, lines 31-58, col. 6, line 54 to col. 8, line 9).

OSTRUP differs from the claim, in that, it does not disclose the change in data rate is in response to an initiation of a call with a second network. However, OSTRUP does disclose that if a call is to be established between the MS and the second network (PSTN), then the full rate channel can be changed to half-rate traffic channel (see col. 7, lines 54-58).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to incorporate this data rate change feature in the system of OSTRUP to maximize the bandwidth allocation for data transmission.

Referring to claim 24, OSTRUP discloses that the communication channels are timeslots on the carrier (see col. 5, lines 20-30).

Referring to claim 25, OSTRUP discloses that the channels can operate at a first or second data rate such that a timeslot on the carrier can transmit a single communication channel operating at the first data rate or two communication channels operating at the second data rate (see col. 5, lines 9-19).

Referring to claim 26, OSTRUP discloses that the controller is responsive to the initiation of the call with the second network for initiating a change in the data rate of two channels transmitted on separate timeslots from the first data rate to the second data rate and combining the two channels onto the same timeslot (see col. 5, lines 20-30).

Referring to claim 27, OSTRUP discloses that the first data rate is a full speech rate and the second data rate is a half speech rate (see col. 6, lines 25-31).

Referring to claim 28, OSTRUP discloses that the controller is responsive to the number of channels established in the network exceeding a predetermined threshold (HTTH value) for initiating a change in the data rate of the transmitted channel from the first data rate to the second data rate (see col. 4, lines 43-58).

Referring to claim 29, OSTRUP discloses that the change of data rate of a transmitted channel is performed for a connection between subscribers within the network (see col. 3, lines 7-20).

Referring to claims 30 and 42, OSTRUP discloses a controller (MSC) configured to operate in a network, the controller comprising: a responding unit (or means for responding) configured to respond to a comparison of High Traffic Threshold (HTTH) value, to initiate a change in a data rate of a transmitting channel from the first data rate to the second data rate, wherein the network communicates with a plurality of radiotelephones via respective communication channels over a carrier, the channels configured to operate at a first or second data rate such that the carrier transmits data through a single communication channel operating at the first data rate or two communication channels operating at the second data rate, an initiating unit (or means for initiating) configured to initiate a change in a data rate of a transmitting channel from the first data rate to the second data rate (see col. 4, lines 31-58, col. 6, line 54 to col. 8, line 9).

OSTRUP differs from the claim, in that, it does not disclose the change in data rate is in response to an initiation of a call with a second network. However, OSTRUP does disclose that if a call is to be established between the MS and the second network (PSTN), then the full rate channel can be changed to half-rate traffic channel (see col. 7, lines 54-58).

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Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to incorporate this data rate change feature in the system of OSTRUP to maximize the bandwidth allocation for data transmission.

Referring to claims 31-36, claims are rejected for the same reasoning as applied to claims 24-29 above.

Referring to claim 37, OSTRUP discloses a radiotelephone (120-180) configured to operate with a network (100) which initiates a change in a data rate of a channel from a first data rate to a second data rate in response to a comparison of High Traffic Threshold (HTTH) value, the radiotelephone comprising: a controller in response to a signal from the network, configured to change the data rate of data being transmitted through the channel of the radiotelephone.

OSTRUP differs from the claim, in that, it does not disclose the change in data rate is in response to an initiation of a call with a second network. However, OSTRUP does disclose that if a call is to be established between the MS and the second network (PSTN), then the full rate channel can be changed to half-rate traffic channel (see col. 7, lines 54-58).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to incorporate this data rate change feature in the system of OSTRUP to maximize the bandwidth allocation for data transmission.

5. Referring to claims 39-41, claims are rejected for the same reasoning as applied to claims 24-26 above

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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Alperovich et al., Haartsen, Haeggstrom, and Sieppi are additionally cited to show the common feature of multi-rate radio communication system utilizing time slots for data transmission with different data rates similar to the claimed invention.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alpus H. Hsu whose telephone number is (571)272-3146. The examiner can normally be reached on M-F (5:30-3:00) First Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wellington Chin can be reached on (571)272-3134. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AHH



Alpus H. Hsu
Primary Examiner
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